

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

CONNOR MASON,

Plaintiff,

v.

**REGIONS BANK and
RONALD THOMAS ASHBY d/b/a
STATEWIDE RECOVERY SOLUTIONS,**

Defendants.

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Civil No. 1:16-cv-01299-RP

REGIONS BANK'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES

Defendant Regions Bank ("Regions Bank") files this Original Answer to the "Complaint for Violations of: (1) The Fair Debt Collection Practices Act, (2) the Uniform Commercial Code, (3) the Texas Finance Code, and (4) the Texas Motor Vehicle [sic] Installment Sales Act" (the "Complaint") filed by Plaintiff Connor Mason ("Plaintiff"), and shows as follows:

OPERATIVE FACTS

1. Regions Bank admits Plaintiff purchased a vehicle from an auto dealership in Austin, Texas that assigned the retail installment sales contract and security interest. Regions Bank lacks information sufficient to form a belief about the truth of the remaining allegations in Paragraph 1 and therefore denies same.

2. Regions Bank denies the allegations in Paragraph 2.

3. Regions Bank lacks information sufficient to form a belief about the truth of the allegations in Paragraph 3 and therefore denies same.

4. Regions Bank admits it issued a notice of sale but denies the remaining allegations in Paragraph 4.

5. Regions Bank lacks information sufficient to form a belief about the truth of the allegations in Paragraph 5 and therefore denies same.

6. Regions Bank lacks information sufficient to form a belief about the truth of the allegations in Paragraph 6 and therefore denies same.

JURISDICTION AND VENUE

7. Regions Bank neither admits nor denies the allegations in Paragraph 7 as they require a conclusion of law.

8. Regions Bank neither admits nor denies the allegations in Paragraph 8 as they require a conclusion of law.

PARTIES

9. Regions Bank lacks information sufficient to form a belief about the truth of the allegations in Paragraph 9 and therefore denies same.

10. Regions Bank admits the allegations in Paragraph 10.

11. Regions Bank lacks information sufficient to form a belief about the truth of the allegations in Paragraph 11 and therefore denies same.

12. Regions Bank denies the allegations in Paragraph 12.

FIRST CAUSE OF ACTION

(Against Defendant Ashby for Violations of The Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.)

13. Paragraph 13 makes no factual allegations.

14. Regions Bank neither admits nor denies the allegations in Paragraph 14 as they require a conclusion of law.

15. Regions Bank denies the allegations in Paragraph 15.

16. Regions Bank denies the allegations in Paragraph 16.

17. Regions Bank denies the allegations in Paragraph 17.

18. Regions Bank denies the allegations in Paragraph 18.
19. Regions Bank denies the allegations in Paragraph 19.
20. Regions Bank denies the allegations in Paragraph 20.

SECOND CAUSE OF ACTION

**(Against Defendant Regions Bank for Violations of the Uniform Commercial Code,
Texas Bus. & Commerce Code §§ 9.609, 9611 [sic], and 9.612 [sic])**

21. Paragraph 21 makes no factual allegations.
22. Regions Bank denies the allegations in Paragraph 22.
23. Regions Bank denies the allegations in Paragraph 23.
24. Regions Bank denies the allegations in Paragraph 24.
25. Regions Bank denies the allegations in Paragraph 25.
26. Regions Bank denies the allegations in Paragraph 26.
27. Regions Bank denies the allegations in Paragraph 27.

THIRD CAUSE OF ACTION

(Against All Defendants for Violations of Texas Finance Code § 392.001 et seq.)

28. Paragraph 28 makes no factual allegations.
29. Regions Bank neither admits nor denies the allegations in Paragraph 29 as they
require a conclusion of law.
30. Regions Bank neither admits nor denies the allegations in Paragraph 30 as they
require a conclusion of law.
31. Regions Bank denies the allegations in Paragraph 31.
32. Regions Bank denies the allegations in Paragraph 32.
33. Regions Bank denies the allegations in Paragraph 33.

FOURTH CAUSE OF ACTION

**(Against Defendant Regions Bank for Violations of
the Texas Motor Vehicle Installment Sales Act, Texas Fin. Code § 348.001 et seq.)**

- 34. Paragraph 34 makes no factual allegations.
- 35. Regions Bank denies the allegations in Paragraph 35.
- 36. Regions Bank denies the allegations in Paragraph 36.
- 37. Regions Bank denies the allegations in Paragraph 37.

AFFIRMATIVE DEFENSES

38. In the alternative, Regions Bank would show that Plaintiff's claims are barred and waived in whole or in part by the express terms of the contractual agreements between the parties.

39. In the alternative, Plaintiff lacks standing or legal capacity to sue on the claims at issue or to recover damages in the capacity in which it sued.

40. In the alternative, Regions Bank would show that Plaintiff acted in such a way as to constitute contributory negligence, assumption of risk, estoppel, release, or waiver.

41. In the alternative, Regions Bank would show that the damages, if any, allegedly sustained by Plaintiff were caused, in whole or in part, by Plaintiff's negligence or the negligence of others for whom Regions Bank is not responsible.

42. In the alternative, Regions Bank would show that Plaintiff failed to mitigate its damages as required by law.

43. In the alternative, Regions Bank would show that Plaintiff has failed to state a claim upon which relief can be granted.

44. In the alternative, Regions Bank would show that Plaintiff's damages, if any, were caused by negligent acts or omissions of third-parties and Regions Bank is entitled to a comparative apportionment of fault, if any, as to other potential defendants or third-parties, if any, and is entitled to a judgment against them herein for contribution, indemnity or a percentage reduction in

accordance with the apportionment of fault. Regions Bank also alleges that it is entitled to indemnity or contribution from each third-party and/or a credit or pro rata reduction for any amounts paid by any third-parties pursuant to Chapter 32 and Chapter 33 of the Texas Civil Practice and Remedies Code.

45. In the alternative, Regions Bank denies that Plaintiff is entitled to attorneys' fees under any applicable law of the State of Texas.

46. Regions Bank hereby gives notice that it intends to rely upon such other defenses as may become available or appear during discovery in this action and reserves its right to amend this answer to assert such defense(s) or other matters as permitted by law.

RESERVATION OF RIGHTS TO ARBITRATE

47. Regions Bank reserves the right to enforce the arbitration clause in the "Motor Vehicle Retail Installment Sales Contract" entered into by Plaintiff on or about August 20, 2015.

CONCLUSION & PRAYER

48. For these reasons, Regions Bank asks the Court to:
- a. deny Plaintiff's claims and requests for damages, interest, attorneys' fees, costs, and expenses;
 - b. dismiss Plaintiff's claims with prejudice; and
 - c. grant Regions Bank all other relief to which it is justly entitled.

Respectfully Submitted,

KANE RUSSELL COLEMAN & LOGAN PC

By: s/ Kenneth C. Johnston

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***Attorneys for Defendant,
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing document was served electronically on all parties, through their attorneys of record, via the Court's CM/ECF system on this 3rd day of January, 2017.

s/ Kenneth C. Johnston

Kenneth C. Johnston